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BY ELECTRONIC AND REGULAR MAIL

James A. McLaughlin,
Deputy General Counsel
The Washington Post
1301 K Street NW
Washington DC 20071

Re: Response to James A. McLaughlin's letter of December 7, 2016; second request for retraction of "Russian propaganda effort helped spread 'fake news' during election, experts say" (November 24, 2016), for public apology, and for opportunity to respond.

Dear Mr. McLaughlin,

Thank you for your December 9 letter, which raises further issues. I write on behalf of my clients ("Clients"), Aurora Advisors Incorporated ("Aurora") which publishes the finance and economics website Naked Capitalism (nakedcapitalism.com), Black Agenda Report, LLC which publishes Black Agenda Report (blackagendareport.com), The Institute for Political Economy, which publishes the website Paul Craig Roberts (paulcraigroberts.org), and The Institute for the Advancement of Public Journalistic Clarity, which publishes the website Counterpunch (counterpunch.org), to reiterate the request initially made on behalf of Aurora in our letter dated December 4, 2016 ("Letter"), now on behalf of Clients, that the article by Craig Timberg, "Russian propaganda effort helped spread 'fake news' during election, experts say" ("Fake News") [https://www.washingtonpost.com/business/economy/russian-propaganda-effort-helped-spread-fake-news-during-election-experts-say/2016/11/24/793903b6-8a40-4ca9-b712-716af66098fe_story.html] published by the Washington Post on Thursday, November 24, be immediately removed from your website and all web-accessible archives. Clients also ask, as Aurora did previously, for a prominent public apology for the false and defamatory accusations made in Fake News and

for an equally prominent (i.e. not in a “Comments” section) opportunity to respond.

Letter discussed why Fake News is per se defamatory and how it has done substantial harm to Aurora. The other Clients have suffered similar harm, including but not limited to damage to profitability, reputation and policy impact; diversion of scarce reporting and managerial resources to respond to concerned inquires and debunk the Post’s attack, loss of readers: and harm to writers and editors associated with Clients, such as ridicule, emotional distress, loss of reputation, and risk to future career advancement, including for example, difficulty passing background and security checks.

In addition to replying to Letter, you also responded to Truthdig, LLC regarding Fake News via your letter dated December 7, 2016. We note that these letters overlap substantially. However, one claim made only in your response to Letter, in disputing its demand for correction, is demonstrably counterfactual, and so egregiously so as to call into question the caliber of your internal review with respect to the other assertions about the Washington Post’s internal procedures.

We continue to demand a correction with respect to this statement in your letter and the related claim in Fake News that the information from PropOrNot was provided to you on an embargoed basis prior to publication:

One of them was PropOrNot, a group that insists on public anonymity, which issued a report identifying more than 200 websites that, in its view, wittingly or unwittingly published or echoed Russian propaganda.

The list of 200 websites (actually 199 since one name was duplicated, so the “more than 200” is another error that separately calls for correction) was **not** in the embargoed report that is the foundation of Mr. Timberg’s article. The report and the list of 199 sites are **entirely different documents** published at different times. Moreover, the 199-site list was public before you published Fake News. Had Mr. Timberg, your editors and fact-checkers merely skimmed the embargoed report, they would have easily seen there was no long list of websites in it.¹ Your response evidently failed to include any independent verification with respect to the issues the Letter.

A preliminary version of the list (with 178 names) had been published on PropOrNot’s website at least as of November 9, 2016. Aurora was notified of its existence shortly before Fake News ran (when the list then contained 199 websites) but

¹ The report on the PropOrNot website, under “The Report” tab, is labeled as “Embargoed Until Midnight PST Fri Nov 26” [sic] and is thus the report provided to Mr. Timberg.

chose not to debunk it since PropOrNot's site was getting unmeasurably low traffic at that time.

Thus your response to Letter demonstrates an abject failure to investigate Mr. Timberg's reporting or basic facts regarding PropOrNot:

In three separate places in your letter, you dispute the Article's description of the timing of publication of the PropOrNot report, and you demand a correction of the Post's reference to having received an "advance copy." The reference was accurate. At the time of the Article's publication (November 24), PropOrNot had not publicly released its report. That took place on November 26. We do not doubt your claim that Naked Capitalism had obtained a copy before the official release, or that leaked copies may have been available online. Nevertheless, the Article's description was correct.

Your response confirms that responsible parties at the Washington Post, neglected to make even a cursory investigation of source materials for a first page article even after Fake News had become an object of widespread opprobrium. Had Mr. Timberg, his editors, or any fact-checker merely skimmed the embargoed report (which is clearly identical to the one now on PropOrNot's site; that version prominently displays the embargo language and the authorized release time of "Midnight PST, Fri Nov 26"), it would be easy to see that it contains no list of "more than 200 websites."

In addition, had Mr. Timberg, his editors, or any fact-checkers looked at the list at PropOrNot's website, it would have seemed incumbent on them to investigate the site further, which should not have been hard since it then had only two pages in addition to its home page. The second page was "Frequently Asked Questions."² That short section defames Aurora and the other Clients by among other things, calling for them to be investigated for possible violations of the Espionage Act and the Foreign Agent Registration Act by the FBI and Department of Justice (Item #7) and depicting all sites on the list as having "controllers abroad" (Item #11).

As many other journalists have pointed out, such unsubstantiated, hair-on-fire, and potentially defamatory claims should have led Mr. Timberg and the Washington Post to exercise far more caution in relying on PropOrNot as a source, particularly given its

² "Frequently Asked Questions," PropOrNot.com, November 26, 2016. Our downloaded version of November 23, 2016 shows it to be virtually identical to the November 26 version, particularly with respect to the defamatory statements.

lack of any reputation whatsoever and its extreme and unreasonable insistence on secrecy.³

Your other defenses of Fake News rest on three arguments:

The Washington Post was merely reporting on the claims of PropOrNot, along with those of other sources, and not engaging in advocacy

Fake News did not name Naked Capitalism or the sites published by the other Clients, and hence is not responsible for any damage done to them

The damage to the defamed sites would be remedied if they were removed from PropOrNot's list

Experts in journalism have deemed these arguments, which are also embodied in the "Editor's Note" currently associated with Fake News to be disingenuous and the Washington Post's response therefore inadequate. As the Columbia Journalism Review said (emphasis original):⁴

It leaves much to be desired. . . .

More importantly, the editor's note vaults into verbal gymnastics in an attempt to simultaneously rationalize and distance itself from an obviously flawed primary source. Any data analysis is only as good as the sum of its parts, and it's clear that PropOrNot's methodology was lacking.

The *Post*, of course, was *merely reporting what PropOrNot said*. Yet it used declarative language throughout, sans caveat, lending credence to a largely unknown organization that lumps together independent left-wing publications and legitimately Russian-backed news services. The *Post* diminished its credibility at a time when media credibility is in short supply, and the non-apologetic editor's note doesn't help.

³ See among many others, "Why Are Media Outlets Still Citing Discredited 'Fake News' Blacklist?" FAIR, December 1, 2016 (available at <http://fair.org/home/why-are-media-outlets-still-citing-discredited-fake-news-blacklist/>)

⁴ David Uberti, "Washington Post story blurs the definition of fake news," Columbia Journalism Review, December 8, 2016 (available at http://www.cjr.org/criticism/washington_post_fake_news_russian_propaganda.php)

Media watchdog FAIR wrote:⁵

Almost two weeks after its article ran, the **Post** ran a [sort of correction](#) in the form of an editorial comment in italics pasted on top of the online edition of Timberg's November 24 piece (where only those looking for the by then old original story would find it.)....

Of course, the damage was already done, as the original article achieved widespread circulation via the **Post**'s wire service; it would be up to all those news organizations that bought and ran the story, or reported their own versions of it, to make any correction.

Meanwhile, the facile dodge of "we didn't name the sites" ignores the reality that the **Post** had prominently showcased PropOrNot and let its name vouch for the heretofore unknown group's credibility. The paper didn't have to run the list; anyone with a smartphone could do a **Google** search, find PropOrNot's website as the first listing, go to the homepage and find a link button headed "The List."

And apparently plenty of readers did that. While thanks to the **Post**'s grant of anonymity, PropOrNot's hidden principals remained safe from inquiring reporters and Russian hackers alike, editors of sites named on its McCarthyite hit list quickly found themselves deluged with venomous calls and emails. As Jeffrey St. Clair, a co-founder and editor of **CounterPunch.org**, another site listed prominently as a propaganda tool, recalls, "The morning after the **Post** published its article, I found 1,000 emails in my inbox, mostly hate mail and death threats."

Due to not only to the Post's reputation but also to the prominent placement you gave to Fake News, the damage done to Clients is increasing with the passage of time. Despite your "Editor's Note," both Fake News and its now widely discredited source PropOrNot are still being picked up uncritically as authoritative sources on, rather than of, "fake news."

For example, Counterpunch has been dropped from Google News' news feed, and the timing coincides with the publication of Fake News. Counterpunch asked to be reinstated and was refused, even though Counterpunch secured its removal

⁵ Dave Lindorff, "Rather Than Exposing Propaganda, WaPo Shows How It's Done," FAIR, December 8, 2016 (available at <http://fair.org/home/rather-than-exposing-propaganda-wapo-shows-how-its-done/>)

from PropOrNot's list.

In addition, a CNN story on "fake news" released after the "Editor's Note" was published,⁶ cites a linked "two studies" as the "apparent reference" for Hillary Clinton's call for legislation to deal with the threat of foreign propaganda. That link goes to an older CNN story. The widely debunked PropOrNot "study," described in some detail, is in fact one of those two "studies."⁷

Thus a source from which you are now attempting to distance yourself is being treated by CNN as even more authoritative by virtue of being an "apparent" source for Hillary Clinton. Even worse, CNN's insinuation about Fake News' past and continuing influence on Clinton by virtue of your refusal to retract the story and issue a prominent apology may be accurate.

Similarly, Eli Pariser, the founder of Moveon.org and Avaaz, who also co-founded Upworthy with a Facebook co-founder as the lead investor, is heading a large scale, multi-faceted, crowdsourced effort to combat "fake news." Its foundational document, a work in progress,⁸ includes both PropOrNot and Fake News as sources for "fake news" sites. A writer for Naked Capitalism who has been harmed by PropOrNot and Fake News and also knows Pariser personally asked Pariser to remove all references to PropOrNot and Fake News from the crowdsourced document. Pariser refused despite being told the allegations were false and that the "Editor's Note" demonstrated that the Washington Post did not really stand behind PropOrNot or its blacklist.

You have made damaging false accusations against Clients and you have not rectified the considerable harm done. Please immediately remove these documents from the web and provide an equivalent opportunity to respond. I look forward to hearing from you within three business days. Please contact me if I can provide further information.

⁶ Dan Merica, "Hillary Clinton calls 'fake news' an epidemic with real world consequences," CNN, December 8, 2016 (available at <http://www.cnn.com/2016/12/08/politics/hillary-clinton-fake-news-epidemic/index.html>)

⁷ Jim Dougherty, "The reality behind Russia's fake news," CNN, December 2, 2016 (available at <http://www.cnn.com/2016/12/02/politics/russia-fake-news-reality/>). Mr. Dougherty's reliance on the Washington Post and failure to do his own reporting can be seen via his article repeating the error in the Fake News, that the "report" to which the CNN article links, contains PropOrNot's list of supposed propagandists: "PropOrNot's report lists 200 websites...."

⁸ "eMedia ReDesign: The New Realities," Design Solutions for Fake News," Google Docs (available at https://docs.google.com/document/d/1OPghC4ra6QLhaHhW8QvPJRMKGEXT7KaZtG_7s5-UQrw/edit#heading=h.97o89pmf8ct6)

Sincerely,

/s/ James A. Moody

James A. Moody
Counsel to above-listed Clients